

Lansing, Michigan

April 2, 2002

A regular meeting of the State Administrative Board was held in the State Capitol, Senate Appropriations Room, 3rd Floor, on Tuesday, April 2, 2002, at 11:00 a.m.

Present: David Hildenbrand, Deputy Chief of Staff, representing Dick Posthumus, Lt. Governor, Chairperson
Patrick F. Isom, Assistant Attorney General, representing Jennifer M. Granholm, Attorney General
Julie A. Croll, Chief Deputy State Treasurer, representing Douglas B. Roberts, State Treasurer
A. Edwin Dore, Deputy Secretary of State, representing Candice Miller, Secretary of State
Elaine Madigan Mills, Director of State Aid and School Finance, representing Thomas D. Watkins, Superintendent of Public Instruction
Arlene Oisten, Secretary

Absent: John Engler, Governor

Others Present:

Deborah Ann Devine, Ann Marie Voice, of the Department of Attorney General; David Claus, Kathy Jones, Mary Lewis, Mary Ellen Perkowski, Thomas Saxton, of the Department of Management and Budget; Pamela Lavender, of the Department of Transportation; Arthur Siegal of Jaffe Raitt, Heuer and Weiss, P.C.; John Lindstrom and Tim Reid

1. CALL TO ORDER:

The meeting was called to order by Mr. Hildenbrand. In the absence of clergy, the Chairperson requested the Board to observe a moment of silence. Mr. Hildenbrand then led the Pledge of Allegiance to the Flag.

2. READING OF MINUTES OF PRECEDING MEETING AND APPROVAL THEREOF:

Mr. Dore moved that the minutes of the State Administrative Board for the regular meeting of March 19, 2002 be approved as distributed. Ms. Croll supported the motion, and it was unanimously adopted.

3. HEARING OF CITIZENS ON MATTERS FALLING UNDER JURISDICTION OF THE BOARD

Mr. Siegal of Jaffe Raitt Heuer and Weiss, P. C. representing WDG Investment Company, LLC and as an interested taxpayer, submitted a letter on behalf of WDG Investment Company, LLC to the members of the Board. He requested that the Building Committee's recommendation for approval of the Grand Rapids office space lease not be approved. He stated that it was more expensive and that the DMB's summary of the lease underestimates the cost to the people of Michigan. He estimated that it would cost \$15 million more than another prospective landlord. He believed that a less expensive facility that would include parking for employees could be provided.

Mr. Siegal noted that when DMB made the proposal to the Joint Capital Outlay Subcommittee (JCOS), it approved approximately \$60 million and now the costs are over \$70 million. There was no bidding conducted. This was done without public scrutiny. WDG Investment Company, LLC was denied the right to make a proposal when they heard of the forthcoming lease.

Mr. Siegal stated that the DMB procedures have two exemptions to the competitive bidding requirements. A waiver can be granted if there is a complete market analysis. FOIA responses do not indicate that a complete market analysis was done. The information used by DMB was dated (November, 2000) and the property size was not comparable to the State lease needs. DMB compared 70,000 square feet at 5 years to the State's request of 137,000 square feet for 25 years. Nor did DMB include information received from the nine offers received last year. He also indicated that this raw data did not appear to be a complete market analysis.

Mr. Siegal stated that JCOS only approved \$56,732,704.49 for this lease and did not include approval of the maintenance costs and all utilities. He requested the Board send this request back to JCOS for further review.

Mr. Siegal was also concerned because the lease document itself was not presented to JCOS. He stated that JCOS procedures required a lease document be presented to JCOS for approval. He again requested that the Board send the lease back for further review, citing the lack of a waiver, no bid process and not following procedures.

Mr. Isom clarified Mr. Siegal's reference in his letter to the State Administrative Board (SAB) meeting as a hearing. The SAB meetings are open meetings and not hearings as an attorney may use the term.

Mr. Saxton, Director of DMB Tenant and Land Services, distributed to the Board members a copy of DMB's transmittal to JCOS, dated May 31, 2001, and an accompanying DMB spreadsheet, establishing that the total base rent to be paid under the lease conforms to what had been previously presented to JCOS (approximately \$56,732,710). Mr. Saxton explained that it is DMB policy to utilize Class A space, to centralize and consolidate services, to use downtown space, and to co-locate with local units of government. He mentioned other examples of this policy, including the former GM Building in Detroit. This is a new lease with the City of Grand Rapids for 137,000 square feet with a term of 25 years. There is a \$1 buy-out option or nominal renewal at the end of the lease. Half of the City owned building is being leased by the Grand Rapids Police Department. The location is centralized and follows with a plan to co-locate with other agencies to permit better services to the people of the community. Some of the State offices will be moving from private lease locations to this new site. The base rate is \$12.50 per square foot. With other operational costs the rate increases to \$17.25 per square foot. There are base rent increases over the first nine years of the contract up to \$17.04 per square foot for the remainder of the term. Comparable rental rates of between \$19 and \$23 per square foot were identified in the Grand Rapids area. The Department of Attorney General has approved the lease as to form and has not yet reviewed the final financial documents. The \$56,732,704 refers to the base rent as presented to JCOS.

Ms. Voice confirmed that a lease document had not been submitted to JCOS, nor have other lease documents been submitted to JCOS when requesting approvals. She also confirmed that all the legal forms had not yet been reviewed and approved by the Department of Attorney General.

Mr. Isom asked if DMB fulfilled the requirements for comparable rates.

Mr. Saxton explained that DMB had reviewed the rates within their standard procedures. DMB did not use competitive bidding when partnering with local units of government, as in this case.

Mr. Dore asked if the Department of Attorney General is satisfied that the Administrative Procedures had been followed.

Ms. Voice affirmed that the Department of Attorney General was satisfied that the standard procedures had been followed.

Mr. Siegal pointed out that management fees versus total costs does not equate to the net rentable square fee. He felt the comparisons between the properties were not evaluated equally. Part 5.5a of the lease provides for a separate management fee that was not part of the lease presented to JCOS, leaving an open-ended obligation that JCOS did not know about. This did not conform to the 1999 amendment of the Management and Budget Act.

Ms. Voice clarified that the 1999 amendment of the Management and Budget Act changed the dollar amount and square foot requirements, and did not create a requirement that the lease document itself must be presented to JCOS.

Mr. Isom had looked further into MCL 18.122 (3) for submissions to JCOS and had not found the requirement to submit a lease to JCOS as Mr. Siegal has stated.

Mr. Siegal referred to part of the 1999 amendment that requires lease renewals to be presented to JCOS and had extrapolated from that the intention that the legislature would want all new leases to be presented to JCOS when requesting approval.

Ms. Voice agreed that this change had taken place, but there was still no intent to bring every lease document to JCOS. She clarified that the Department of Attorney General approval is as to legal form only, and that is not an evaluation of the business decisions.

Ms. Croll noted that neither the Building Committee nor the SAB analyze a lease document itself for the content, but rely on the expertise of DMB and the Attorney General.

4. COMMUNICATIONS:

Correspondence from Alan H. Van Noord, Department of Treasury, with the attached summary and detail investment holding reports for the Veterans' Benefit Trust Fund for the quarter ending December 31, 2001, and a report of investment transactions for the quarter ending December 31, 2001, in accordance with a resolution adopted by the State Administrative Board.

The correspondence was accepted by the Chairperson.

5. UNFINISHED BUSINESS:

None

6. NEW BUSINESS:

Retention and Disposal Schedules:

Department of Community Health, Health Promotions and Publications,
8/23/00

Department of Education, Office of Administrative Law, 12/20/01

Department of Management and Budget, Vehicle and Travel Services,
2/14/02

Department of State Police, Communications, 11/2/01

Mr. Dore moved that the Retention and Disposal Schedules be approved by the Board. Mr. Isom supported the motion and it was unanimously approved.

7. REPORTS AND RECOMMENDATIONS OF COMMITTEES:

(Please see the following pages)

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Ms. Croll presented the Finance and Claims Committee Report covering the regular meeting held March 26, 2002. After presentation and review of the forgoing Committee Report, Ms. Croll moved that the regular Finance and Claims Committee Report of March 26, 2002 be approved and adopted, with the withdrawal of item 1s of the second supplemental agenda at the request of the Department of Treasury. The motion was supported by Mr. Dore and unanimously approved.

Ms. Croll presented the Building Committee Report covering the regular meeting held March 27, 2002. After presentation and review of the forgoing Committee Report, Ms. Croll moved that the regular Building Committee Report of March 27, 2002 be approved and adopted with the approval of item 11 contingent upon the Department of Attorney General approval of all the necessary documents. The motion was supported by Mr. Isom and unanimously approved.

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Mr. Dore presented the Transportation and Natural Resources Committee Report for the regular meeting of March 27, 2002. After review of the forgoing Transportation and Natural Resources Committee Report, Mr. Dore moved that the Transportation and Natural Resources Committee Report covering the regular meeting held March 27, 2002 be approved and adopted, noting the Committee meeting withdrawal of item 25 and the additional withdrawal of item numbers 27, 31, and 61 of the regular Transportation agenda at the request of the Department of Transportation. The motion was supported by Ms. Croll.

Mr. Dore noted that item number 3 of the supplemental was a Memorandum of Understanding (MOU) between the Department of Transportation, State Police and Department of State. In the MOU, section 9, paragraph 3 refers to the amount of contributions by the Department of State “AS APPROPRIATED.” The Department of State has no direct appropriation for this program. It does have authorization for up to \$307,900 of remaining fund balances in the boilerplate language of its appropriation bill. Due to the current State budget situation, it is possible that the Department of State will not have any remaining fund balances and, therefore, will not be able to financially support this MOU.

The Chairperson called for the vote and the motion was unanimously approved.

8. MOTIONS AND RESOLUTIONS:
None

9. ADJOURNMENT:

Ms. Croll moved the meeting be adjourned. The motion was supported by Mr. Dore and unanimously approved. Mr. Hildenbrand adjourned the meeting.

SECRETARY

CHAIRPERSON